

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF TEACHING

In the Matter of the Proposed
Revocation or Suspension of the
Teaching Licenses of Dean Edward
Schuman

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on December 7, 2000, at the Office of Administrative Hearings in Minneapolis, Minnesota. Bobby J. Champion, Assistant Attorney General, Suite 200, 525 Park Street, St. Paul, Minnesota 55103, appeared on behalf of the Board of Teaching. There was no appearance by or on behalf of the Respondent, Dean Edward Schuman, P.O. Box 883, Cokato, Minnesota 55321. The record in this matter closed at the conclusion of the hearing on December 7, 2000.

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Michael L. Tillmann, Executive Director, Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, MN 55113, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether or not the Respondent's coaching and physical education teaching licenses should be revoked, suspended, or otherwise subjected to disciplinary action based on allegations that he failed, without justifiable cause, to teach for the term of his teacher's contract, in violation of Minn. Stat. § 122A.20, subd. 1(a)(2).

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing in this matter was served upon the Respondent, Dean Edward Schuman, by first class mail on October 19, 2000, at his last known address, which is P.O. Box 883, Cokato, Minnesota 55321. The envelope

containing the Notice of and Order for Hearing was not returned to the Board or to counsel for the Board.

2. The Notice of and Order for Hearing mailed to the Respondent included the following notice: "SHOULD A PARTY FAIL TO APPEAR AT HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE. If the allegations in this order are taken as true, the teaching licenses of Dean Edward Schuman may be revoked or suspended for one year." (Emphasis in original.)

3. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for a continuance or any other relief. The Respondent did not appear at the hearing scheduled for December 7, 2000, or have an appearance made on his behalf.

4. At the hearing, counsel for the Board noted that a typographical error had been made in the Notice of Hearing. Accordingly, the Notice of Hearing was modified to include an allegation that the contract between the Respondent and Independent School District No. 938 became effective on July 27, 1999.

5. Because the Respondent failed to appear at the hearing in this matter, he is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing, as modified by the Board at the hearing, are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board of Teaching have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 122A.20, and Minn. R. 8710.0800.

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.

3. Any Findings of Fact more properly termed Conclusions of Law are hereby adopted as such.

4. Because the Respondent resigned from his position with Independent School District No. 938 during the pendency of his contract and before a replacement could be hired, without a showing of justifiable cause, as described in the Notice of and Order for Hearing (as modified), the Board is authorized to take adverse action against the Respondent's teaching licenses under Minn. Stat. § 122A.20, subd. 1(a)(2).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that disciplinary action be taken against the teaching licenses of Dean Edward Schuman.

Dated this 2nd day of January, 2001

BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.